

ARTICLE IV- CAREER SERVICE GRIEVANCE - APPEAL PROCEDURE

Section 1 - Purpose.

The purpose of this Article IV is to provide a process to hear, review, resolve and, if appropriate, remedy specified grievances for covered City employees. The City employees covered by this Article IV are full and part time employees except for the employees defined in Section 2.62.020 paragraph A. of the Murray City Municipal Code, as amended.

It is the intent of the process provided in this Article IV to resolve grievances at the lowest level of the line of authority. Accordingly, a covered City employee must exhaust each step of the grievance process provided in Article IV before proceeding to a hearing before the Personnel Advisory Board, the Mayor, the Appeal Board or a State Court.

If a grievance is covered specifically by other ordinances, or policies, such as claims of discrimination, the procedures for the specific grievance shall be followed as defined in the applicable ordinance or policy.

Section 2 - Definitions

1. Grievance

A grievance is defined as the written complaint of an employee to the respective Department Head or the Human Resource Director concerning a working condition which has allegedly caused an injury, injustice, or wrong to the employee. All grievances must be made in writing on an approved form and must state clearly the reasons for the grievance, the people directly involved, and a desired solution to the problem. After exhaustion of the grievance procedure outlined in section 5- steps 1, 2, and 3 all grievances shall be heard by the Personnel Advisory Board except for those within the review authority of the Appeal Board involving discharge, suspension without pay for more than two (2) days or involuntary transfer from one position to another with less remuneration.

Section 3 - Protection and Representation.

1. All covered City employees shall be assured freedom from restraint, interference, discrimination, or reprisal as a result of pursuing the procedures described in this Article IV.
2. At each level of a grievance or appeal, employees may represent themselves or may be represented by one person of their own choosing.
3. The Human Resource Director shall be responsible to ensure that all parties to any appeal or grievance are protected according to this policy and that this policy is observed. The Human Resource Department may also assist the parties concerned at any time to clarify policy, recommend solutions, or assist in clearing up misunderstandings.

Section 4 - Grievance Procedure.

1. It is the policy of the City to adjust grievances of employees promptly and fairly and to do so within the framework of existing laws and regulations. Every effort shall be made to adjust grievances in a manner mutually satisfactory to employees and management. Any employee who alleges inequitable treatment due to some employment condition may personally, or through a representative, seek relief from that condition. In any grievance **not** involving discharge, suspension without pay for more than two (2) days or involuntary transfer, the following procedures shall be followed:

Section 5 - Appeals to the Personnel Advisory Board.

1. The Personnel Advisory Board has jurisdiction to hear appeals from individuals or groups in matters arising from alleged discrimination, City Policy infractions, matters pertaining to the establishment and maintenance of registers, examinations, examination rejection, examination ratings, removal from register, and position classifications. Any applicant whose application for admission to an entrance examination has been denied due to a lack of minimum qualifications, may appeal that denial to the Personnel Advisory Board, which shall consider the appeal according to this Article IV. The Personnel Advisory Board's decision with respect to any such appeal shall be final. As provided in this Article IV, the Personnel Advisory Board does not have jurisdiction over appeals involving discharge, suspensions without pay for more than two (2) days or transfer to a position for less remuneration. All appeals must be filed in writing on approved form with the Department Head and the Human Resource Director.

Step 1. The employee shall complete and submit the grievance form to the immediate supervisor and the Department Head within five (5) working days after the occurrence of the event which is the basis for the grievance. Within five (5) working days, after receiving the grievance, the Department Head shall, after consultation with the related supervisor, invite the employee in to discuss the problem and render a decision.

If the grievance involves the Department/Division Head, the employee may bypass Step 1 and go directly to Step 2.

Step 2. If no satisfactory agreement is reached after Step 1, and it is necessary to carry the grievance further, the interested parties shall within five (5) working days, submit the grievance form and request in writing, a review by the Human Resource Director. The Human Resource Director may, if deemed necessary, conduct an investigation of the grievance. Within 20 calendar days from receipt of the grievance, the Human Resource Director shall provide a recommendation to the employee's Department Head. The Department Head shall provide a decision to the employee within 10 calendar days from receipt of the recommendation by the Human Resource Director.

Step 3. If no satisfactory agreement is reached after Step 2 and it is necessary to carry the grievance further, the interested parties have the right to have the matter heard on appeal before the Personnel Advisory Board. The written grievance form shall be completed and forwarded to the Human Resource Director within five (5) working days from the date of the Department Director's final decision under Step 2.

- Step 4. Within twenty (20) calendar days after receipt of a written request for a hearing on appeal, in matters within its jurisdiction, the Personnel Advisory Board shall review the appeal, schedule and hold a hearing. The Personnel Advisory Board shall submit a decision in writing to the employee making the appeal, within 10 working days from the date of the Personnel Advisory Board's decision.
- Step 5. An aggrieved employee or the employee's Department Head may appeal the decision of the Personnel Advisory Board to the Mayor by filing written notice within five (5) working days following receipt of the decision. The Mayor shall, after review of the record, including the hearing before the Personnel Advisory Board, make a decision within 30 calendar days after receipt of the appeal. The Mayor's decision shall be final.

Section 6 - Appeals, involving suspension without pay for more than two (2) days, discharge or transfer to a position of less remuneration - Creation of Three Member Appeal Board.

- Step 1. The employee shall complete and submit the grievance form to the immediate supervisor and the Department Head within five (5) working days after the occurrence of the event which is the basis for the grievance. Within five (5) working days, after receiving the grievance, the Department Head shall, after consultation with the related supervisor, invite the employee in to discuss the problem and render a decision.

If the grievance involves the Department/Division Head, the employee may bypass Step 1 and go directly to Step 2.

- Step 2. If no satisfactory agreement is reached after Step 1, and it is necessary to carry the grievance further, the interested parties shall within five (5) working days, submit the grievance form and request in writing, a review by the Human Resource Director. The Human Resource Director may, if deemed necessary, conduct an investigation of the grievance. Within 20 calendar days from receipt of the grievance, the Human Resource Director shall provide a recommendation to the employee's Department Head. The Department Head shall provide a decision to the employee within 10 calendar days from receipt of the recommendation by the Human Resource Director.

- Step 3. If no satisfactory agreement is reached after Step 2 and it is necessary to carry the grievance further, the interested parties have the right to have the matter heard on appeal before an independent Appeal Board. The written grievance form shall be completed and forwarded to the Human Resource Director within five (5) working days from the date of the Department Director's final decision under Step 2.

Selection of the Three Member Appeal Board

The Human Resource Director shall maintain a current roster of mediators and arbitrators, as provided by the administrative office of the Utah Courts.

The selection of the Appeal Board Members shall be as follows: the Mayor, the grievant, and their Department Head shall each select from the Utah Courts Roster of Mediators and Arbitrators, one member to serv on the Appeals Board, subject to availability.

Step 4. Within twenty (20) calendar days after receipt of a written request for a hearing on appeal, in matters within its jurisdiction, the Appeal Board shall review the appeal, schedule and hold a hearing. The Appeal Board shall submit a decision in writing to the Mayor, the Department Head and the employee making the appeal, within 10 working days from the date of the Appeal Board's decision.

- (a) The employee shall be entitled to appear in person and to be represented by counsel, to have a hearing, confront witnesses whose testimony is to be considered and to examine the evidence to be considered by the Appeal Board.
- (b) Each decision of the Appeal Board, shall be certified with the City Recorder within 15 calendar days from the date the matter is referred to it, except for good cause, the Appeal Board may extend the 15-day period to a maximum of 60 calendar days, if the employee and the Department Head both consent.

If the Appeal Board finds in favor of the employee, the Appeal Board shall provide that the employee shall receive the employee's salary for the period of time during which the employee is discharged or suspended without pay; or any deficiency in salary for the period during which the employee was transferred to a position of less remuneration.

- (c) A final action or order of the Appeal Board may be appealed to the Utah Court of Appeals by filing with that court, a notice of appeal. Each notice of appeal shall be filed within 30 calendar days after the issuance of the final action or order of the Appeal Board. The Utah Court of Appeals' review shall be on the record of the Appeal Board and for the purpose of determining if the Appeal Board abused its discretion or exceeded its authority.